

ENTERED

February 07, 2025

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ERIN CARLING,

Plaintiff,

vs.

SACKS COUNSELING, LLC, *et al.*,

Defendant.

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CIVIL ACTION NO. H-24-1413

**MEMORANDUM AND OPINION OVERRULING PLAINTIFF'S OBJECTIONS
TO MAGISTRATE JUDGE'S MEMORANDUM AND RECOMMENDATION**

The plaintiff, Erin Carling, filed an employment discrimination case against her former employer, Sacks Counseling, LLC. Representing herself, Carling alleged that her conflicts with her employer and her mental health struggles were the result of race discrimination, disability discrimination, and retaliation in employment under Title VII. Magistrate Judge Bennett ably analyzed the motions to dismiss the complaint, concluding that the court could not reasonably infer from the facts pleaded that an adverse employment action was taken because of Carling's protected status. Magistrate Judge Bennett also concluded that Carling provided no facts showing that her alleged impairments qualified as a disability under the ADA. Magistrate Judge Bennett found no basis to grant Carling's motion for a preliminary injunction to address her workplace complaints. Magistrate Judge Bennett properly concluded that the pleadings did not show that Carling had engaged in protected activity that was causally related to an adverse employment action. Finally, Magistrate Judge Bennett found that Carling had failed to state a claim as to two defendants that Carling added to her amended complaint, Truth and Spirit Counseling, LLC, and Positive Recovery, LLC. Finding no basis to believe that amendment would be anything but futile,

Magistrate Judge Bennett recommended that the injunction request be denied and the complaint be dismissed with prejudice.

Carling filed objections. Magistrate Judge Bennett recommended overruling the objections, giving reasons for each recommendation. This court adopts the Memoranda and Recommendations of the Magistrate Judge and affirms his denial of the objections that have been filed.

Docket Entry No. 8, Memorandum and Recommendation, pertains to Carling's Motion for Preliminary Injunction. (Docket Entry No 4). The objections were filed at Docket Entry No. 12. Those objections are overruled, and the Motion for Preliminary Injunction is denied.

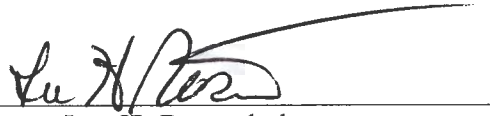
Docket Entry No. 26, Memorandum and Recommendation, pertains to Carling's Motion for Hearing, (Docket Entry No. 16), Defendant Sacks Counseling's Motion to Dismiss, (Docket Entry No 13), Defendant Sacks Counseling's Motion for More Definite Statement, (Docket Entry No. 14), and Carling's Motion for Extension of Time, (Docket Entry No. 21). Carling filed objections at Docket Entry Nos. 32 and 36. She also appealed the Memorandum and Recommendation, (Docket Entry No. 39), which was dismissed for lack of jurisdiction. (Docket Entry No. 51). The objections are overruled. Carling's Motion for Hearing is denied as moot. Sacks Counseling's Motion to Dismiss is granted. Sacks Counseling's Motion for More Definite Statement is denied as moot. Carling's Motion for Extension of Time is denied as moot.

Docket Entry No. 45, Memorandum and Recommendation, pertains to Carling's Motion for Leave to Appeal *in forma pauperis*, (Docket Entry No. 44). Carling filed objections at Docket Entry No 46. The objections are overruled. Carling's Motion for Leave to Appeal *in forma pauperis* is denied.

Docket Entry No. 47, Memorandum and Recommendation, pertains to Defendant Spirit and Truth Counseling's Motion to Dismiss, (Docket Entry No. 27), Defendant Positive Recovery's Motion to Dismiss, (Docket Entry No 29), Carling's Motion for Extension of Time, (Docket Entry No. 33), and Carling's Motion for Leave to Appeal *in forma pauperis*, (Docket Entry No. 40). Carling filed objections at Docket Entry No. 48. The objections are overruled. Defendant Spirit and Truth Counseling's Motion to Dismiss and Defendant Positive Recovery's Motion to Dismiss are granted. The Motion for Extension of Time and Motion for Leave to Appeal *in forma pauperis* are denied as moot.

The complaint is dismissed with prejudice as to all defendants. Final judgment is separately entered.

SIGNED on February 7, 2025, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'Lee H. Rosenthal', is written over a horizontal line.

Lee H. Rosenthal
Senior United States District Judge